

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JANE DOE 1, *et al.*,

Plaintiffs,

v.

Civ. No. 23-362 GBW/JHR

EASTERN NEW MEXICO UNIVERSITY  
BOARD OF REGENTS, *et al.*,

Defendants,

and

FOREMOST INSURANCE COMPANY  
GRAND RAPIDS, MICHIGAN,

Plaintiff-in-Intervention,

v.

MEGHAN DE LOS REYES, *et al.*,

Defendants-in-Intervention,

and

JANE DOE 1, *et al.*,

Involuntary Defendants-in-Intervention.

**ORDER GRANTING PLAINTIFFS' MOTION TO RECONSIDER**

THIS MATTER comes before the Court on Plaintiffs' Opposed Motion to Reconsider the Memorandum Opinion and Order Granting Eastern New Mexico University Board of Regent's [sic] Motion for Judgement [sic] on the Pleadings on All

Human Rights Act Claims in Count III (“Motion”). *Doc.* 299. In the Motion, Plaintiffs request that the Court reconsider its July 18, 2024, Order Granting Defendant Eastern New Mexico University Board of Regents’s Motion for Judgment on the Pleadings on All Human Rights Act Claims in Count III. *See doc.* 159. Plaintiffs request reconsideration based on the New Mexico Supreme Court’s recent decision in *Johnson v. Bd. of Educ. for Albuquerque Pub. Sch.*, 2025 WL 274117 (N.M. Jan. 23, 2025), which expressly overruled *Human Rights Comm’n of New Mexico v. Bd. of Regents of the Univ. of New Mexico Coll. of Nursing*, 624 P.2d 518 (N.M. 1981), the primary authority on which the Court relied in issuing its July 18, 2024, Order. *See generally doc.* 159. Defendant Eastern New Mexico University Board of Regents (“ENMUBOR”) filed its response in opposition to the Motion on March 24, 2025, contending that, notwithstanding *Johnson*, Plaintiffs’ New Mexico Human Rights Act (“NMHRA”) claims are barred by Eleventh Amendment immunity and cannot be adjudicated in federal court. *See generally doc.* 302.

Motions for reconsideration are not expressly recognized by the Federal Rules of Civil Procedure. *Trujillo v. Bd. of Educ. of Albuquerque Pub. Schs.*, 229 F.R.D. 232, 234 (D.N.M. 2005) (citing *Computerized Thermal Imaging, Inc. v. Bloomberg, L.P.*, 312 F.3d 1292, 1296 n.3 (10th Cir. 2002)). When a party moves for reconsideration of a final order, that motion is treated as a Rule 59(e) or 60(b) motion, depending on its timing. *See Computerized Thermal Imaging*, 312 F.3d at 1296 n.3. A motion for reconsideration of a

non-final (i.e., interlocutory) order is treated as a request for relief under Rule 54(b), which provides that any non-final order “may be revised at any time before the entry of judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(b); *Price v. Philpot*, 420 F.3d 1158, 1167 n.9 (10th Cir. 2005). Reconsideration of an interlocutory order lies within the Court’s discretion and is appropriate where there has been an intervening change in controlling law. *See Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000).

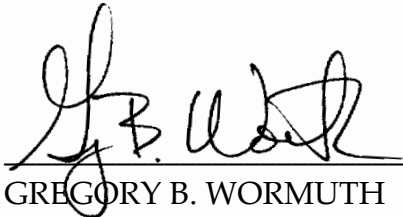
In light of *Johnson*, which constitutes an intervening change in controlling law, and Defendant’s sole argument that Plaintiffs’ NMHRA claims are barred by Eleventh Amendment immunity and cannot be heard in federal court absent the proper waiver, the Court will GRANT the Motion. In an Order entered concurrently herewith, the Court declines to exercise supplemental jurisdiction over Plaintiffs’ remaining state law claims, including their now-reinstated NMHRA claim, rendering Defendant’s jurisdictional argument moot.

IT IS THEREFORE ORDERED that Plaintiffs’ Opposed Motion to Reconsider the Memorandum Opinion and Order Granting Eastern New Mexico University Board of Regents’ [sic] Motion for Judgement [sic] on the Pleadings on All Human Rights Act Claims in Count III (*doc. 299*) is GRANTED and Defendant Eastern New Mexico University Board of Regents’ Motion and Memorandum for Judgment on the Pleadings on All Human Rights Act Claims in Count III (*doc. 108*) is DENIED. Plaintiffs’

claim against Defendant Eastern New Mexico University Board of Regents for

Violations of the New Mexico Human Rights Act (Count III) is reinstated. *See doc. 47* ¶¶

121-131.

A handwritten signature in black ink, appearing to read "G.B. Wormuth", is written over a horizontal line.

GREGORY B. WORMUTH  
CHIEF UNITED STATES MAGISTRATE JUDGE  
**Presiding by Consent**